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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,589

03/09/2004

Clifton Deal

1101

7590

04/11/2006

Clifford Kraft  
320 Robin Hill Dr.  
Naperville, IL 60540

EXAMINER

WALTERS, JOHN DANIEL

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/796,589

Applicant(s)

DEAL, CLIFTON

Examiner

John D. Walters

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,6-9 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 1, 3, 6 – 9, and 12 – 14 have been examined. Claims 2, 4, 5, 10, and 11 have been canceled by Applicant.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6 – 9, and 12 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enright (2,926,927) in view of Seiling (3,336,046). Enright discloses a two-wheeled coaster vehicle comprising:

- a front and rear wheel (Fig. 1, items 54 and 32);
- said wheels attached to a frame (Fig. 1, item 12);
- said frame comprising a handle bar and a seat (Fig. 1, items 56 and 20);
- a floor being sloped towards vehicle front (Fig. 1, item 62).

Enright does not make use of a solid floorboard nor does he disclose differing sized tires. Seiling, however, discloses a pedalless bicycle comprising:

- a solid platform (Fig. 1, item 17);
- differing sized wheels (Fig. 1, items 12 and 18).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the solid board of Seiling to the coaster vehicle of Enright in order to provide more stable footing for an operator.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the differing sized wheels of Seiling to the coaster vehicle of Enright in order to provide a smaller tire in front to facilitate turning and a larger tire in the rear to facilitate the absorption of the forces generated by uneven ground.

In regards to claims 1, 3, 6, 8, 9, and 14, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to size the components of said vehicle to properly fit the expected physical size/structure of the operator.

In regards to claims 7, 12 and 13, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of a lightweight material, such as aluminum, in order to reduce vehicle weight and improve speed characteristics.

### ***Response to Arguments***

Applicant's arguments, see page 5, filed 3/31/2006, with respect to informalities in claim 11 have been fully considered and are persuasive. The objection of 12/30/2005 has been withdrawn.

Applicant's arguments filed 3/31/2006 with regards to 35 U.S.C. § 103 have been fully considered but they are not persuasive.

Applicant states, "Enright and Seiling do not teach wheels that are around 26 inches and 24 inches..."

As stated in the above rejection, specific sizing would have been obvious to one of ordinary skill in the art at the time of applicant's invention. Changes in size and/or proportion are obvious variations of prior art. See *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984).

Applicant also states, "...no suggestion to combine Seiling with Enright...Enright...teaching away from scooter action..."

Proper motivation is given in the above rejection. Enright is provided for his teaching of a solid floorboard and differing sized wheels. It is not necessary for the device of Enright to make use of "scooter action" as the issues addressed by said floorboard and wheels are applicable in any number of wheeled vehicle types.

Applicant also states, "...neither Enright nor Seiling teach scooter action...impossible to safely use that frame to stand on...floor is level...works against scooter action."

Enright is clearly capable of being used in a "scooter action" mode. While Enright specifically discusses dismounting and pushing said vehicle in non-downhill situations, it would be obvious to one of ordinary skill in the art at the time of applicant's

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invention that such a vehicle could be utilized in a "scooter action" mode by an operator placing a foot at the intersection of cross beam 63 and base members 14 and 16. This is certainly not "impossible". In any event, Enright is combined with Seiling in the above rejection because "It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the solid board of Seiling to the coaster vehicle of Enright in order to provide more stable footing for an operator." Additionally, as there are many level floored scooters, it is unclear why Applicant would assert that a level floor acts against "scooter action".

For these reasons, the rejections stand.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Lovell (1,535,167) discloses a scooter;
- Weber (1,725,838) discloses a frame for bicycles and the like;
- Koch (1,965,194) discloses a combination velocipede;
- Bernier (2,183,534) discloses a vehicle, scooter type;
- Huyssen (3,647,241) discloses a rider propelled vehicle;
- Ehrlich (4,763,913) discloses a bicycle/scooter combination;
- Dickson et al. (5,992,864) discloses a motorless human powered scooter;
- Ray et al. (6,273, 439) discloses a scooter;

- Nall (6,450,516) discloses a scooter with adjustable seat assembly;
- Dold (DE 3936317 A1) discloses a bicycle/scooter combination.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone

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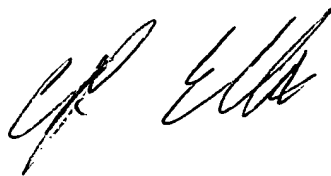
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

JDW  

CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
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